

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

MONTIE SHY

Plaintiff,

v.

ALLIED PROPERTY AND CASUALTY
INSURANCE COMPANY

Defendant.

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CIVIL ACTION NO. 1:15-cv-172

NOTICE OF REMOVAL

Defendant, Allied Property and Casualty Insurance Company (“Defendant”), through undersigned counsel and pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, files this Notice of Removal of the captioned action *Montie Shy v. Allied Property and Casualty Insurance Company*; Cause No. 48943-A, in the 42nd District Court of Taylor County, Texas.

BACKGROUND

1. Plaintiff Montie Shy initiated this action by filing his Original Petition in Cause No. 48943-A, in the 42nd District Court of Taylor County, Texas on February 5, 2015 (the “State Court Action”). *See* Exhibit A, Plaintiff’s Original Petition. The Original Petition was served on Defendant through its registered agent on August 31, 2015. *See id.*

2. Defendant filed its Original Answer on September 15, 2015, in which it asserted a general denial. *See* Defendant’s Original Answer, attached as Exhibit B.

**II.
DIVERSITY JURISDICTION**

3. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332, and the matter is removable to this Court pursuant to 28 U.S.C. § 1441(a) because there is complete diversity of

citizenship between the properly joined parties and the amount in controversy exceeds \$75,000 exclusive of interest and costs.

A. Diversity of Parties

4. Plaintiff is domiciled in Taylor County, Texas. Pursuant to 28 U.S.C. § 1332(a), therefore, Plaintiff is a citizen of the State of Texas.

5. Allied Property and Casualty Insurance Company is organized under the laws of Ohio and maintains its principal place of business in Columbus, Franklin County, Ohio. Pursuant to 28 U.S.C. § 1332(c)(1), therefore, Allied is a citizen of the State of Ohio

6. Accordingly, there is complete diversity between the parties.

B. Amount in Controversy

7. In violation of Rule 47(c) of the Texas Rules of Civil Procedure, Plaintiff fails to plead a specific range of monetary relief sought by way of this lawsuit.

8. Plaintiff did, however, send Defendant a pre-suit demand in which Plaintiff offered to settle the parties' dispute "for a total of \$11,694.75 which includes actual damages in the amount of \$79,781.97, and attorney's fees in the amount of \$31,912.78." Exhibit C, demand letter, at p. 6. Plaintiff's demand also indicated that additional attorneys' fees would accrue through trial. Based on Plaintiff's own representations, the amount in controversy requirement is clearly satisfied.

**III.
CONCLUSION**

9. Removal is proper because there is complete diversity between Plaintiff and Defendant, the amount in controversy exceeds \$75,000, and Defendant is not a citizen of the state in which this case was brought.

10. Pursuant to 28 U.S.C. § 1446(d), promptly after filing this Notice of Removal, Defendant will give written notice of the removal to Plaintiff through his attorney of record, and to the clerk of the 42nd Judicial District Court of Taylor County, Texas.

Respectfully submitted,

/s/ Patrick M. Kemp

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**ATTORNEYS FOR DEFENDANT,
ALLIED PROPERTY AND CASUALTY
INSURANCE COMPANY**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been served upon the following counsel of record via certified mail, return receipt requested on this 15th day of September, 2015.

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/s/ Patrick M. Kemp

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